

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

ANTHONY HAPPEL,)
Plaintiff) CASE NO. 1:23-CV-00013-SPB
vs.)
RICHARD A. LANZILLO
UNITED STATES MAGISTRATE JUDGE
MARK BISHOP, UPMC, DEPUTY)
WARDEN MICHAEL SCANNELL,)
ANGELA TROWBRIDGE, NATALIE)
DESKO,) ORDER ON MOTION FOR LEAVE TO
Defendants) FILE SECOND AMENDED COMPLAINT
IN RE: ECF NO. 46)

Plaintiff Anthony Happel seeks leave to file a Second Amended Complaint. *See* ECF No. 46. Federal Rule of Civil Procedure 15 provides that leave to amend should be “freely” given “when justice so requires.” Fed. R. Civ. P. 15(a)(2). Having reviewed Happel’s proposed Second Amended Complaint, the Court will grant his motion to amend. The Clerk of this Court is directed to docket the proposed Second Amendment Complaint (ECF No. 46-1) as a new and separate docket entry entitled “Second Amended Complaint.” Accordingly, Happel’s Second Amended Complaint is now considered the operative pleading in this case.

Given that the Defendants’ motions to dismiss challenge the previous (and now inoperative) amended complaint, their motions (ECF Nos. 21, 28, and 31) are denied as moot without prejudice. *See, e.g., Farmer-Shaw v. Wetzel*, 2023 WL 3304956, at *1 (W.D. Pa. May 8, 2023). After reviewing the Second Amended Complaint, the Defendants may file new motions

to dismiss or an Answer to the Second Amended Complaint within fourteen days of the date of this order. *See, e.g., Cooper v. Miller*, 2021 WL 5112264, at *1 (M.D. Pa. Nov. 3, 2021).

SO ORDERED this 5th day of July, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Richard A. Lanzillo".

RICHARD A. LANZILLO
UNITED STATES MAGISTRATE JUDGE